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In the Matter of:)	
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ECHOSTAR CORPORATION)	
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Application for Special Temporary Authority)	File No. SES-STA-_____
to Operate 5,000,000 receive-only earth)	Call Sign E080107
stations in the United States to receive Direct)	
Broadcast Satellite Service from the)	
Canadian-licensed Nimiq 5 Satellite at the)	
72.7° W.L. Orbital Location)	
)	

By this Application,¹ EchoStar Corporation (“EchoStar”) seeks special temporary authority (“STA”) to operate for 60 days 5,000,000 receive-only earth stations in the United States to receive Direct Broadcast Satellite (“DBS”) service from the Nimiq 5 satellite operating as a Canadian-licensed satellite on up to 32 channels at the 72.7° W.L. orbital location.²

¹ Concurrent with this application, EchoStar is filing applications for special temporary authority to operate two earth station authorizations (E070014 and E080007) to perform feeder link operations with the Nimiq 5 satellite at 72.7° W.L.

² In line with previous fee waivers granted by the Office of the Managing Director, EchoStar has submitted the fee associated with VSAT systems. *See* Letter to Pantelis Michalopoulos, Counsel for EchoStar Corporation, from Mark Stephens, Chief Financial Officer, dated June 15, 2009 (granting fee waiver for application to operate 5,000,000 blanket earth stations with EchoStar 6 at 72.7° W.L.).

satellite.³ That satellite is now scheduled to be launched on September 18, 2009. This STA is necessary to allow EchoStar, and its customer, DISH Network Corporation (“DISH Network”), to begin providing DBS service to U.S. consumers from Nimiq 5 while EchoStar’s modification application is pending.

As EchoStar described in the *Nimiq 5 Application*, the 72.7° W.L. orbital location has been allotted to Canada under the International Telecommunication Union’s Region 2 Plan for the Broadcasting-Satellite Service (“BSS”). Canada has authorized Telesat Canada to use the entire 12.2-12.7 GHz DBS band at the 72.7° W.L. location. Telesat has contracted to provide the use of all of the satellite’s capacity to Bell ExpressVu Limited Partnership, a limited partnership organized under the laws of the Province of Ontario in Canada, acting through its General Partner, Bell ExpressVu Inc. (“Bell ExpressVu”), a Canadian company. Pursuant to the Nimiq 5 Transponder Service Agreement between EchoStar (and certain of its affiliates) and Bell ExpressVu (the “Nimiq 5 Agreement”), EchoStar will in turn subscribe for the use of up to 16 of the satellite’s DBS transponders to provide service into the U.S.⁴

For the reasons set forth herein, grant of this Application would strongly serve the public interest and would not cause any harmful interference.

I. GRANT OF THIS APPLICATION IS IN THE PUBLIC INTEREST

The grant of this application is in the public interest because it will provide EchoStar’s customer, DISH Network, immediate access to Nimiq 5, which provides better coverage and

³ See File No. SES-MFS-20090306-00253 (filed Mar. 6, 2009) (“*Nimiq 5 Application*”). EchoStar filed a minor amendment to provide a revised Schedule S on August 7, 2009. See File No. SES-AMD-20090807-00977 (filed Aug. 7, 2009).

⁴ See Nimiq 5 Transponder Service Agreement between Bell ExpressVu Limited Partnership, by its General Partner Bell ExpressVu Inc., and EchoStar Corporation, dated March 11, 2008, filed in *Nimiq 5 Application*, Attachment B.

higher power than EchoStar 6, allowing DISH Network to offer more local-into-local, high definition, and other programming from the 72.7° W.L. orbital location. EchoStar and DISH Network face an almost exponentially increased need for bandwidth to accommodate the transmission of high-definition programming, including the retransmission of local-into-local stations. Specifically, the digital television transition and the increased demand for high-definition programming have exacerbated dramatically the bandwidth shortage with which DBS providers have perennially struggled. Moreover, by its Order released on March 27, 2008, the Commission has imposed high definition digital carriage obligations on satellite carriers.⁵

While EchoStar and DISH Network benefit from the 16 channels currently available from EchoStar 6,⁶ they will have access to 16 higher power channels with better antenna coverage over Nimiq 5 through EchoStar's agreement with Bell ExpressVu, which will allow EchoStar and DISH Network to better compete with bandwidth-rich terrestrial multichannel video programming distributors ("MVPDs").

II. GRANT OF THIS APPLICATION WILL NOT CAUSE HARMFUL INTERFERENCE TO OTHER SATELLITES

The grant of this application will not present any significant risk of interference to other U.S. satellites and non-U.S. satellites. To the east, the closest DBS satellite is the Canadian-

⁵ *Carriage of Digital Television Broadcast Signals: Amendment of Part 76 of the Commission's Rules; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues*, CS Docket No. 00-96, Second Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rulemaking, FCC 08-86 (rel. Mar. 27, 2008).

⁶ Under the original Memorandum of Agreement among Telesat, EchoStar and Bell ExpressVu, effective March 11, 2008, and submitted in File No. SES-LFS-20080512-00595, EchoStar 6 was to operate on 11 DBS channels from 72.7° W.L. As a result of subsequent amendments to that agreement, the parties agreed to operate EchoStar 6 over 16 DBS channels at that location.

licensed DIRECTV 1R satellite at 72.5° W.L. That satellite, however, will be operating on different (opposite polarization) DBS channels than the 16 channels that EchoStar is initially expected to use on Nimiq 5, and DIRECTV 1R will continue to operate on opposite polarization channels so as long as it is operating at the 72.5° W.L. cluster. The next closest satellites to the east are EchoStar's own satellites at the 61.5° W.L. orbital cluster, which is more than ten degrees away from 72.7° W.L. To the west, the nearest DBS satellite is the Mexican-licensed EchoStar 4 satellite at 77° W.L. and EchoStar's own satellite, EchoStar 8, operating under Special Temporary Authority at 77.15° W.L. Canadian and Mexican BSS operations at 72.7° and 77° W.L., respectively, have been fully coordinated, and the operation of the Nimiq 5 satellite from the 72.7° W.L. orbital location will be fully in conformance with current or future coordination agreements and operational agreements.

III. WAIVER PURSUANT TO SECTION 304 OF THE ACT

In accordance with Section 304 of the Communications Act of 1934, as amended, 47 U.S.C. § 304, EchoStar hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

IV. CONCLUSION

For all of these reasons, EchoStar respectfully requests special temporary authority for 60 days to provide DBS service into the United States from Nimiq 5 operating at 72.7° W.L.

Respectfully submitted,
/s/ Linda Kinney

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